

than equipment referred to in subparagraph (A) for the purpose of—

"(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

"(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

"(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

"(4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.

"(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

"(6) Aerial and ground reconnaissance outside, at, or near the borders of the United States.

"(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

"(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

"(c) **CONTRACT AUTHORITY.**—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

"(d) **LIMITED WAIVER OF PROHIBITION.**—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

"(e) **CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.**—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564) [10 U.S.C. 124 note]) for the purpose of aiding civilian law enforcement agencies.

"(f) **RELATIONSHIP TO OTHER LAWS.**—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

"(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (d), section 376 of title 10, United States Code.

"(g) **AVAILABILITY OF FUNDS.**—Of the amount made available for operation and maintenance for fiscal year 1992 under section 301(a)(14) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 [Pub. L. 102-190, 105 Stat. 1332], \$40,000,000 shall be available to the Secretary of Defense for the purpose of carrying out this section."

#### COMMUNICATIONS NETWORK

Section 1103 of Pub. L. 100-456, which related to integration of United States assets dedicated to interdiction of illegal drugs into an effective communications network, was repealed by Pub. L. 101-189, div. A, title XII, § 1204(b), Nov. 29, 1989, 103 Stat. 1584. See section 1204(a) of Pub. L. 101-189 set out as a note under section 124 of this title.

tion of illegal drugs into an effective communications network, was repealed by Pub. L. 101-189, div. A, title XII, § 1204(b), Nov. 29, 1989, 103 Stat. 1584. See section 1204(a) of Pub. L. 101-189 set out as a note under section 124 of this title.

#### ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR NATIONAL GUARD

Section 1105 of Pub. L. 100-456, which related to funding and training of National Guard for purpose of drug interdiction and enforcement operations and for operation and maintenance of equipment and facilities for such purpose, was repealed by Pub. L. 101-189, div. A, title XII, § 1207(b), Nov. 29, 1989, 103 Stat. 1566. See section 112 of Title 32, National Guard.

#### § 375. Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

(As amended Pub. L. 101-189, div. A, title XII, § 1211, Nov. 29, 1989, 103 Stat. 1567.)

#### AMENDMENTS

1989—Pub. L. 101-189 substituted "any activity" for "the provision of any support", struck out "to any civilian law enforcement official" after "any personnel", and substituted "a search, seizure, arrest," for "a search and seizure, an arrest,".

#### CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE

#### § 401. Humanitarian and civic assistance provided in conjunction with military operations

**APPROPRIATION OF FUNDS FOR HUMANITARIAN AND CIVIC ASSISTANCE; ANNUAL REPORT TO CONGRESS ON OBLIGATIONS; USE OF CIVIC ACTION TEAMS IN TRUST TERRITORIES OF PACIFIC ISLANDS AND FREELY ASSOCIATED STATES OF MICRONESIA**

Pub. L. 102-172, title VIII, § 8021, Nov. 26, 1991, 105 Stat. 1175, provided that: "Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239 [48 U.S.C. 1681 note]: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a non-

reimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 101-511, title VIII, § 8021, Nov. 5, 1990, 104 Stat. 1879.

Pub. L. 101-165, title IX, § 9031, Nov. 21, 1989, 103 Stat. 1135.

§ 402. Transportation of humanitarian relief supplies to foreign countries

[See main edition for text of (a) to (c)]

(d) Not later than July 31 each year, the Secretary of State shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12-month period ending on the preceding June 30.

(As amended Pub. L. 101-510, div. A, title XIII, § 1311(2), Nov. 5, 1990, 104 Stat. 1669.)

#### AMENDMENTS

1990—Subsec. (d). Pub. L. 101-510 substituted "Not later than July 31 each year" for "At the end of each six-month period" and "the 12-month period ending on the preceding June 30" for "such six-month period".

#### DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(2) delegated to Secretary of State by section 1-201(a)(24) of Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of Title 22, Foreign Relations and Intercourse.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 5463.

### CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

Subchapter	Sec.
I. General Matters.....	421
II. Intelligence Commercial Activities.....	431

#### AMENDMENTS

1991—Pub. L. 102-88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added items for subchapters I and II.

### SUBCHAPTER I—GENERAL MATTERS

Sec.	
421.	Funds for foreign cryptologic support.

#### AMENDMENTS

1991—Pub. L. 102-88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added subchapter heading.

1989—Pub. L. 101-189, div. A, title XVI, § 1622(c)(2), Nov. 29, 1989, 103 Stat. 1604, substituted "Funds for foreign cryptologic support" for "Funds for Foreign Cryptologic Support" in item 421.

§ 421. Funds for foreign cryptologic support

[See main edition for text of (a) and (b)]

(c) Any funds expended under the authority of subsection (a) shall be reported to the Select

Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.

(As amended Pub. L. 101-189, div. A, title XVI, § 1622(c)(3), Nov. 29, 1989, 103 Stat. 1604.)

#### AMENDMENTS

1989—Subsec. (c). Pub. L. 101-189 substituted "House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds" for "House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds".

### SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

Sec.	
431.	Authority to engage in commercial activities as security for intelligence collection activities.
432.	Use, disposition, and auditing of funds.
433.	Relationship with other Federal laws.
434.	Reservation of defenses and immunities.
435.	Limitations.
436.	Regulations.
437.	Congressional oversight.

#### AMENDMENTS

1991—Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 437, added subchapter heading and analysis of sections.

§ 431. Authority to engage in commercial activities as security for intelligence collection activities

(a) **AUTHORITY.**—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 1995.

(b) **INTERAGENCY COORDINATION AND SUPPORT.**—Any such activity shall—

(1) be coordinated with, and (where appropriate) be supported by, the Director of Central Intelligence; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) **DEFINITIONS.**—In this subchapter:

(1) The term "commercial activities" means activities that are conducted in a manner consistent with prevailing commercial practices and includes—

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;